



Journal of the House

State of Indiana

116th General Assembly

First Regular Session

Twelfth Meeting Day

Thursday Morning

January 29, 2009

The invocation was offered by Pastor Joy Thornton, Greater Saint Mark Baptist Church, Indianapolis.

The Pledge of Allegiance to the Flag was led by Representative P. Eric Turner.

The House convened at 10:00 a.m. with Speaker B. Patrick Bauer in the Chair.

The Speaker ordered the roll of the House to be called:

Austin	Kersey
Avery	Klinker
Bardon	Knollman
Barnes	Koch
Bartlett	L. Lawson
Battles	Lehe
Behning	Lehman
Bell	Leonard
Bischoff	Lutz
Blanton	McClain
Borders	Messmer
Borror	Michael
Bosma ☐	Moseley ☐
C. Brown	Moses
T. Brown	Murphy
Burton	Neese
Candelaria Reardon	Niezgodski
Cheatham	Noe
Cherry	Oxley
Clements	Pearson
Clere	Pelath
Crawford	Pflum
Crouch ☐	Pierce
Culver	Pond
Davis	Porter
Day	Pryor
DeLaney	Reske
Dembowski	Richardson
Dermody	Riecken
Dobis	Robertson
Dodge	Ruppel
Duncan	Saunders
Dvorak	M. Smith
Eberhart	V. Smith
Espich	Soliday
Foley	Stemler
Friend	Steuerwald
Frizzell ☐	Stevenson
Fry	Stilwell
GiaQuinta	Sullivan
Goodin	Summers
Grubb	Thompson
Gutwein	Tincher
Harris	Torr
Herrell	Truitt
Hinkle	Turner

Tyler
VanDenburgh
VanHaaften
Walorski

Welch
Wolkins
Yarde
Mr. Speaker

Roll Call 20: 96 present; 4 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Monday, February 2, 2009, at 1:30 p.m.

VAN HAAFTEN

The motion was adopted by a constitutional majority.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 8, 21, 41, 173, 225, 228, 246, 269, and 322 and the same are herewith transmitted to the House for further action.

JENNIFER L. MERTZ

Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolutions 10 and 11 and the same are herewith returned to the House.

JENNIFER L. MERTZ

Principal Secretary of the Senate

RESOLUTIONS ON FIRST READING

House Resolution 9

Representative Blanton introduced House Resolution 9:

A HOUSE RESOLUTION to honor the record of the Paoli High School Football Team.

Whereas, Football is one of the most popular interscholastic sports at high schools in the United States, dating back to the late 19th Century;

Whereas, High school athletics encourage healthy competition and physical fitness, and teach students the values of teamwork, discipline, and perseverance; and

Whereas, The Paoli High School Football Team clinched the best record in the school's history, as well as Brian Balsmeyer named as 2A Coach of the Year: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives honor the achievements of the Paoli High School Football Team.

SECTION 2. That the Principal Clerk of the Indiana House of Representatives shall transmit a copy of this resolution to the Paoli High School Football Team.

The resolution was read a first time and adopted by voice vote.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1033, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 13, after "IC 15-11-2-3(6)" insert **"and gasification and algae production systems for the conversion of livestock waste to renewable energy"**.

Page 2, line 33, delete "anaerobic digestion" insert **"treatment systems to:**

(i) minimize air emissions of livestock waste;

(ii) ensure that water quality standards are met; and

(iii) generate renewable energy."

Page 2, delete line 34.

Page 2, line 35, delete "livestock waste" and insert **"the potential for energy generation from the installation and use of "**.

Page 2, line 36, after "systems" insert **", gasification systems, and algae production systems at concentrated animal feeding operations (as set forth in 40 CFR 122.23), confined feeding operations (as defined by IC 13-11-2-40), and wastewater treatment plants (as defined by IC 13-11-2-258)"**.

(Reference is to HB 1033 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

PFLUM, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1063, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

SUMMERS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1201, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 37, delete "who:" and insert **"who"**.

Page 2, line 38, delete "(A)".

Page 2, line 38, delete "age; or" and insert **"age."**.

Page 2, run in lines 37 through 38.

Page 2, delete lines 39 through 40.

(Reference is to HB 1201 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 4.

SUMMERS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1217, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 5, strike "remittance".

Page 4, line 6, strike "record" and insert **"refund"**.

Page 4, strike lines 7 through 8.

Page 4, line 9, strike "(2)" and insert **"(1)"**.

Page 4, line 11, strike "(3)" and insert **"(2)"**.

Page 4, line 13, strike "(4)" and insert **"(3)"**.

Page 4, line 26, delete "appointed by the director and is".

(Reference is to HB 1217 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

PFLUM, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1218, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 26-4-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The corporation's board is created. The governing powers of the corporation are vested in the board, which is composed of thirteen (13) members as described in subsections (b) and (c).

(b) The board consists of the following ten (10) voting members:

(1) Two (2) members appointed by the largest Indiana organization representing the interests of grain and feed dealers in Indiana.

(2) Two (2) members appointed by the largest Indiana organization representing general farm interests in Indiana.

(3) One (1) member appointed by the second largest Indiana organization representing general farm interests in Indiana.

(4) One (1) member appointed by the largest Indiana organization exclusively representing the interests of corn producers.

(5) One (1) member appointed by the largest Indiana organization exclusively representing the interests of soybean producers in Indiana.

(6) ~~One (1) member~~ Two (2) members appointed by the largest Indiana organization representing the interests of bankers in Indiana.

(7) ~~One (1) member appointed by the second largest Indiana organization representing the interests of bankers in Indiana.~~

(8) (7) One (1) member appointed by the largest Indiana organization representing the interests of the seed trade in Indiana.

The members appointed under subdivisions (2) through (5) must be producers.

(c) The board consists of the following three (3) nonvoting members:

(1) The attorney general.

(2) The treasurer of state.

(3) The director of the agency, who shall serve as the chairperson.

(d) The attorney general and treasurer of state may each designate a representative to serve on the board."

Renumber all SECTIONS consecutively.

(Reference is to HB 1218 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

PFLUM, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1285, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective dates in SECTIONS 2 through 10 with "[EFFECTIVE UPON PASSAGE]".

Replace the effective dates in SECTIONS 13 through 20 with "[EFFECTIVE UPON PASSAGE]".

Replace the effective date in SECTION 26 with "[EFFECTIVE UPON PASSAGE]".

Page 8, line 18, delete "June 30, 2009" and insert "**the effective date of this subsection**".

Page 24, after line 26, begin a new paragraph and insert: "**SECTION 27. An emergency is declared for this act.**".

(Reference is to HB 1285 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

VAN HAAFTEN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1547, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, between lines 1 and 2, begin a new paragraph and insert:

"**Sec. 10.2. (a) As used in this chapter, "military equipment" means weapons, arms, or military defense supplies provided directly or indirectly to any force of a state sponsor of terror. The term includes any equipment that readily may be used for military purposes, including:**

(1) radar systems; or

(2) military grade transport vehicles.

(b) The term does not include weapons, arms, or military defense supplies sold to peacekeeping forces that may be dispatched to a state sponsor of terror by the United Nations or the African Union.

Sec. 10.4. (a) As used in this chapter, "mineral extraction activities" means the exploration, extraction, processing, transporting, or wholesale sale of elemental minerals or associated metals or oxides, including:

(1) gold;

(2) copper;

(3) chromium;

(4) chromite;

(5) diamonds;

(6) iron;

(7) iron ore;

(8) silver;

(9) tungsten;

(10) uranium; and

(11) zinc.

(b) The term includes the facilitation of mineral extraction activities, including the provision of supplies or services in support of mineral extraction activities.

Sec. 10.6. (a) As used in this chapter, "oil related activities" includes:

(1) the export of oil;

(2) the extraction of or production of oil;

(3) the exploration for oil;

(4) the ownership of rights to oil blocks;

(5) the refining or processing of oil;

(6) the transportation of oil;

(7) the selling or trading of oil; or

(8) the construction or maintenance of a pipeline, a

refinery, or another oil field infrastructure.

(b) The term includes the facilitation of oil related activities, including the provision of supplies or services in support of oil related activities. The mere retail sale of gasoline and related consumer products is not considered an oil related activity.

Sec. 10.8. As used in this chapter, "power production activities" means any business operation that involves a project commissioned by a state sponsor of terror whose purpose is to facilitate power generation and delivery. The term includes the following:

(1) Establishing power generating plants or hydroelectric dams.

(2) Selling or installing components for power generating plants or hydroelectric dams.

(3) Providing service contracts related to the installation or maintenance of power generating plants or hydroelectric dams.

(4) Facilitating power production activities, including providing supplies or services in support of power production activities."

Page 3, delete lines 15 through 42.

Page 4, delete lines 1 through 4.

Page 4, between lines 4 and 5, begin a new paragraph and insert:

"**Sec. 13. (a) As used in this chapter, "scrutinized company" means a company that meets any of the following criteria:**

(1) Both of the following apply to the company:

(A) The company has business operations that involve contracts with or the provision of supplies or services to:

(i) a state sponsor of terror;

(ii) companies in which a state sponsor of terror has any direct or indirect equity share;

(iii) consortiums or projects commissioned by a state sponsor of terror; or

(iv) companies involved in consortiums or projects commissioned by a state sponsor of terror.

(B) Either:

(i) more than ten percent (10%) of the company's revenues or assets is linked to a state sponsor of terror involve oil related activities or mineral extraction activities; or

(ii) more than ten percent (10%) of the company's revenues or assets is linked to a state sponsor of terror involve power production activities.

(2) The company supplies military equipment to a state sponsor of terror, unless the company implements safeguards to prevent the use of the equipment by forces actively participating in an armed conflict in a state sponsor of terror. This subdivision does not apply to companies involved in the sale of military equipment solely to any internationally recognized peacekeeping force or humanitarian organization.

(b) The term does not include a social development company."

Page 7, line 33, delete "(a)".

Page 7, delete lines 37 through 42.

Page 8, delete lines 1 through 4, begin a new paragraph and insert:

"**Sec. 25.5. Notwithstanding any provision to the contrary, sections 22 and 23 of this chapter do not apply to indirect holdings in actively managed investment funds. However, if a fund has indirect holdings in actively managed investment funds containing the securities of scrutinized companies with active business operations, the fund shall submit letters to the managers of the investment funds requesting that the managers remove the scrutinized companies with active business operations from the fund or create a similar actively**

managed fund with indirect holdings without scrutinized companies with active business operations. If the manager creates a similar fund, the fund shall replace all applicable investments with investments in the similar fund in a period consistent with prudent investing standards."

(Reference is to HB 1547 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

NIEZGODSKI, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1686, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "July 1, 2009]" and insert "January 1, 2010]".

(Reference is to HB 1686 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 1.

L. LAWSON, Chair

Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE

Referrals to Ways and Means

The Speaker announced, pursuant to House Rule 127, that House Bills 1201 and 1547 had been referred to the Committee on Ways and Means.

Reassignments

The Speaker announced the following reassignments:

House Bill 1723 from the Committee on Rules and Legislative Procedures to the Committee on Ways and Means.

House Bill 1724 from the Committee on Rules and Legislative Procedures to the Committee on Ways and Means.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 11:00 a.m. with the Speaker in the Chair.

Upon request of Representative Friend, the Speaker ordered the roll of the House to be called to determine the presence of a quorum. Roll Call 21: 83 present. The Speaker declared a quorum present.

HOUSE BILLS ON SECOND READING

House Bill 1472

Representative Pelath called down House Bill 1472 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1254

Representative Thompson called down House Bill 1254 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1204

Representative Bischoff called down House Bill 1204 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1204-1)

Mr. Speaker: I move that House Bill 1204 be amended to read as follows:

Page 1, line 14, delete "or account".

(Reference is to HB 1204 as printed January 23, 2009.)

BISCHOFF

Motion prevailed. The bill was ordered engrossed.

House Bill 1203

Representative Bischoff called down House Bill 1203 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1173

Representative Riecken called down House Bill 1173 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1167

Representative Tyler called down House Bill 1167 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1167-2)

Mr. Speaker: I move that House Bill 1167 be amended to read as follows:

Page 5, line 3, delete "34-6-2-52)" and insert "**34-6-2-52(b))**".

Page 5, line 41, delete "34-6-2-52)" and insert "**34-6-2-52(b))**".

Page 7, line 32, delete "34-6-2-52)" and insert "**34-6-2-52(b))**".

Page 8, line 4 delete "34-6-2-52);" and insert "**34-6-2-52(b));**".

Page 8, line 10, delete "34-6-2-52)" and insert "**34-6-2-52(b))**".

Page 8, line 17, delete "34-6-2-52)" and insert "**34-6-2-52(b))**".

Page 8, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 4. IC 34-6-2-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11.5. "Asbestos claim", for purposes of IC 34-31-8, has the meaning set forth in IC 34-31-8-1.**

SECTION 5. IC 34-6-2-29.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 29.5 "Corporation", for purposes of IC 34-31-8, has the meaning set forth in IC 34-31-8-2."**

Page 8, line 40, after "52." insert "**(a)**".

Page 8, line 41, delete "IC 34-20-3-2 and".

Page 9, between lines 9 and 10, begin a new paragraph and insert:

"**(b) "Hazardous substance", for purposes of IC 34-20-3-2, means a material or waste that has been determined to be hazardous or potentially hazardous to any individual, to property, or to the environment by the United States Environmental Protection Agency, the federal Nuclear Regulatory Commission, the United States Department of Transportation, the solid waste management board, or the United States Occupational Safety and Health Agency or any agent or designee of any of the above mentioned boards, agencies, or commission.**

SECTION 7. IC 34-6-2-71 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 71. (a) "Insurer", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-17.**

(b) "Insurer", for purposes of IC 34-53, has the meaning set forth in IC 27-1-2-3.

(c) "Insurer", for purposes of IC 34-31-8, has the meaning set forth in IC 34-31-8-3.5

SECTION 8. IC 34-6-2-142.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 142.5. "Successor asbestos related liability", for purposes of IC 34-31-8, has the meaning set forth in IC 34-31-8-4.**

SECTION 9. IC 34-6-2-143.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 143.8. "Transferor corporation", for purposes of IC 34-31-8, has the meaning set forth in IC 34-31-8-5."**

Page 9, line 11, after "(a)" insert "Except as provided in subsection (d),".

Page 9, line 12, delete "on" and insert "on:".

Page 9, line 13, reset in roman "(1) property damage resulting from".

Page 9, line 13, after "asbestos;" insert "a hazardous substance (as defined in IC 34-6-2-52(b));".

Page 9, line 13, reset in roman "or".

Page 9, line 14, reset in roman "(2)".

Page 9, line 15, after "substance" insert "(as defined in IC 34-6-2-52(b));".

Page 9, line 16, before "must" insert "occurring within ten (10) years after the delivery of the product to the initial user or consumer,".

Page 9, line 20, after "substance" insert "(as defined in IC 34-6-2-52(b))".

Page 9, delete lines 24 through 32 and insert:

"(c) A product liability action for property damage accrues on the date when the injured person knows that the property damage has resulted from asbestos: a hazardous substance (as defined in IC 34-6-2-52(b)).

(d) This section applies only to A product liability actions action against

(1) persons who mined and sold commercial asbestos; and
(2) funds that have, as a result of bankruptcy proceedings or to avoid bankruptcy proceedings, been created for the payment of asbestos hazardous substance (as defined in IC 34-6-2-52(b)) related disease claims or asbestos hazardous substance (as defined in IC 34-6-2-52(b)) related property damage claims, must be commenced within two (2) years after the cause of action accrues, and claims against these funds are not subject to the ten (10) year period as described in subsection (a).

(e) This section applies to all product liability actions that are based on property damages or personal injury, disability, disease or death resulting from exposure to hazardous substances (as defined in IC 34-6-2-52(b)) that accrue before, on, or after July 1, 2009.

(f) A product liability action that is based on property damage or personal injury, disability, disease, or death resulting from exposure to hazardous substances (as defined in IC 34-6-2-52(b)) that was barred on July 1, 2009, by a period of limitations or repose that was in effect before July 1, 2009, may be commenced after June 30, 2009, and before July 1, 2010, notwithstanding any other law to the contrary."

Page 9, line 38, delete "(d)" and insert "(g)".

Page 9, line 42, delete "(e)" and insert "(h)".

Page 10, after line 5 begin a new paragraph and insert:

"SECTION 11. IC 34-31-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 8. Limited Liability Concerning Asbestos Related Claims

Sec. 1. As used in this chapter, "asbestos claim" means any

claim for damages, losses, indemnifications, contribution, or other relief concerning asbestos, including:

(1) a claim relating to the health effects of exposure to asbestos, including:

(A) personal injury;

(B) death;

(C) mental injury;

(D) emotional injury;

(E) risk of disease or other injury; or

(F) the costs of medical monitoring or surveillance;

(2) a claim made by or on behalf of any person exposed to asbestos, including a claim of a:

(A) representative;

(B) spouse;

(C) parent;

(D) child; or

(E) other relative;

of a person exposed to asbestos; and

(3) a claim for damage or loss caused by the:

(A) installation;

(B) presence; or

(C) removal of asbestos.

Sec. 2. As used in this chapter, "corporation" means a corporation for profit, including a domestic corporation organized under Indiana law or a foreign corporation organized under the law of a jurisdiction other than Indiana.

Sec. 3. As used in this chapter, "insurer" means a company, firm, partnership, association, order, society, or system making any kind or kinds of insurance and shall include associations operating as Lloyds, reciprocal or interinsurers, or individual underwriters.

Sec. 4. As used in this chapter, "successor corporation" means a corporation that:

(1) assumes;

(2) incurs;

(3) has assumed; or

(4) has incurred;

successor asbestos related liability.

Sec. 5. As used in this chapter, "successor asbestos related liability" means any liability that is related to an asbestos claim that was assumed or incurred by a corporation as a result of:

(1) a merger or consolidation with another corporation;

(2) the plan of merger or consolidation related to the merger or consolidation; or

(3) the exercise of control or the ownership of stock of the corporation before the merger or consolidation.

Sec. 6. As used in this chapter, "transferor corporation" means a corporation from which a successor asbestos related liability was assumed or incurred.

Sec. 7. (a) Subject to subsections (c) and (d) and sections 10 and 12 of this chapter, the cumulative successor asbestos related liabilities of a successor corporation are limited to the fair market value of the total gross assets of the transferor corporation, determined as of the time of the merger or consolidation through which the successor corporation assumed or incurred successor asbestos related liability.

(b) A successor corporation is not responsible for successor asbestos related liability in excess of the limitation set forth in subsection (a).

(c) For purposes of this section, if a transferor corporation assumed or incurred successor asbestos related liability in connection with a merger or consolidation with a prior transferor corporation, the fair market value of the total gross assets of the prior transferor corporation determined as of the time of the earlier merger or consolidation shall be substituted for the limitation set forth in subsection (a) to determine the limitation of liability of the successor corporation.

(d) Cumulative successor asbestos related liabilities

include liabilities that exist after the merger or consolidation of the successor corporation and the transferor corporation and that are paid or discharged by or on behalf of the:

- (1) successor corporation; or
- (2) transferor corporation;

as part of a settlement or judgment in Indiana or another jurisdiction.

Sec. 8. The limitations set forth in section 7 of this chapter apply to a corporation that is a successor corporation and became a successor corporation before January 1, 1972, or is a successor of that corporation's successors.

Sec. 9. The limitations set forth in section 7 of this chapter do not apply to:

- (1) worker's compensation benefits paid by or on behalf of an employer to an employee under IC 22-3 or a comparable worker's compensation law in another jurisdiction;
- (2) a claim against a corporation that is not a successor asbestos related liability;
- (3) any obligation under the federal National Labor Relations Act (29 U.S.C. 151, et seq.);
- (4) a collective bargaining agreement;
- (5) an insurer as defined in section 3 of this chapter.
- (6) a successor corporation that after a merger or consolidation continued in the business of:
 - (A) mining asbestos;
 - (B) selling or distributing asbestos fibers;
 - (C) manufacturing, distributing, removing, or installing asbestos containing products;

that were the same or substantially the same as those products previously manufactured, distributed, removed, or installed by the transferor corporation.

Sec. 10. A successor corporation may establish the fair market value of the total gross assets, including intangible assets, of a transferor corporation to determine limitations under section 7 of this chapter by any reasonable method, including:

- (1) by reference to the going concern value of the assets;
- (2) by reference to the purchase price attributable to or paid for assets in an arms length transaction; or
- (3) in the absence of other readily available information from which the fair market value can be determined, by reference to the value of the assets recorded on a balance sheet.

Sec. 11. (a) If the total gross assets of a transferor corporation include liability insurance issued to the transferor corporation, this chapter does not affect the applicability, terms, conditions, or limits of the liability insurance.

(b) This chapter does not affect the rights and obligations of an insurer, transferor, or successor under an insurance contract or any related agreements, including:

- (1) prenegotiated settlements resolving coverage related disputes; or
- (2) contracts regarding the rights of an insurer to seek payment for applicable deductibles, retrospective premiums, self insured periods, or periods as to which insurance is uncollectible or unavailable.

(c) A settlement of a dispute concerning liability insurance coverage entered into by a:

- (1) transferor corporation; or
- (2) successor corporation;

with the insurers of a transferor corporation before July 1, 2009, is determinative of the total coverage of liability insurance to be included in the calculation of a transferor corporation's total gross assets under this chapter.

Sec. 12. (a) Except as provided in subsections (b) through (d), the sum determined as the fair market value of the total gross assets of a transferor corporation as of the time of a

merger or consolidation for purposes of determining the limit on the cumulative successor asbestos related liabilities of a successor corporation under this chapter shall be adjusted annually at a rate equal to the sum of the following:

- (1) The prime rate listed in the first edition of the Wall Street Journal published for each calendar year since the merger or consolidation. If the prime rate is not published in the first edition of the Wall Street Journal, then a reasonable determination of the prime rate on the first day of the year may be used.
- (2) One percent (1%).

(b) The rate described in subsection (a) may not be compounded.

(c) The adjustment of the fair market value of the total gross assets of the transferor corporation as of the time of the merger or consolidation shall continue as described in subsection (a) until the date as of which the adjusted value is first exceeded by the cumulative amounts of successor asbestos related liabilities paid or committed to be paid by or on behalf of:

- (1) the successor corporation;
- (2) any predecessor corporation; and
- (3) the transferor corporation;

after the time of the merger or consolidation.

(d) No adjustment of the fair market value of total gross assets of a transferor corporation under this section shall be applied to any liability insurance."

Renumber all SECTIONS consecutively.

(Reference is to HB 1167 as printed January 27, 2009.)

VAN HAAFTEN

Motion prevailed.

HOUSE MOTION (Amendment 1167-1)

Mr. Speaker: I move that House Bill 1167 be amended to read as follows:

Page 6, between lines 41 and 42, begin a new paragraph and insert:

"(m) For an action commenced under subsection (g), the court shall award attorney's fees as a part of the costs to the prevailing party, if the court finds that either party:

- (1) brought the action or defense on a claim or defense that is frivolous, unreasonable, or groundless;
- (2) continued to litigate the action or defense after the party's claim or defense clearly became frivolous, unreasonable, or groundless; or
- (3) litigated the action in bad faith.

(n) The award of fees under subsection (m) does not prevent a prevailing party from bringing an action against another party for abuse of process arising in any part on the same facts. However, the prevailing party may not recover the same attorney's fees twice."

Page 8, between lines 22 and 23, begin a new paragraph and insert:

"(i) For an action commenced under subsection (h), the court shall award attorney's fees as a part of the costs to the prevailing party, if the court finds that either party:

- (1) brought the action or defense on a claim or defense that is frivolous, unreasonable, or groundless;
- (2) continued to litigate the action or defense after the party's claim or defense clearly became frivolous, unreasonable, or groundless; or
- (3) litigated the action in bad faith.

(j) The award of fees under subsection (i) does not prevent a prevailing party from bringing an action against another party for abuse of process arising in any part on the same facts. However, the prevailing party may not recover the same attorney's fees twice."

Page 10, after line 5, begin a new paragraph and insert:

"(f) For an action commenced under subsection (e), the

court shall award attorney's fees as a part of the costs to the prevailing party, if the court finds that either party:

- (1) brought the action or defense on a claim or defense that is frivolous, unreasonable, or groundless;
- (2) continued to litigate the action or defense after the party's claim or defense clearly became frivolous, unreasonable, or groundless; or
- (3) litigated the action in bad faith.

(g) The award of fees under subsection (f) does not prevent a prevailing party from bringing an action against another party for abuse of process arising in any part on the same facts. However, the prevailing party may not recover the same attorney's fees twice."

(Reference is to HB 1167 as printed January 27, 2009.)

TORR

Motion prevailed. Upon request of Representatives Torr and Friend, the Speaker ordered the roll of the House to be called. Roll Call 22: yeas 76, nays 16. The bill was ordered engrossed.

House Bill 1116

Representative Cheatham called down House Bill 1116 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Joint Resolution 6

Representative Bartlett called down House Bill 6 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 6-1)

Mr. Speaker: I move that House Bill 6 be amended to read as follows:

Delete the title and insert the following:

A JOINT RESOLUTION proposing amendments to Articles 5, 6, and 10 of the Indiana Constitution concerning state and local administration.

Page 3, after line 38, begin a new paragraph and insert:

"SECTION 5. The following proposed amendment to the Constitution of the State of Indiana, which was agreed to by the One Hundred Fifteenth General Assembly of the State of Indiana and referred to this General Assembly for reconsideration and agreement, is agreed to by this the One Hundred Sixteenth General Assembly of the State of Indiana.

SECTION 6. ARTICLE 10, SECTION 1 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 1. (a) **Subject to this section**, the General Assembly shall provide, by law, for a uniform and equal rate of property assessment and taxation and shall prescribe regulations to secure a just valuation for taxation of all property, both real and personal.

(b) A provision of this section permitting the General Assembly to exempt property from taxation also permits the General Assembly to exercise its legislative power to enact property tax deductions and credits for the property. The General Assembly may impose reasonable filing requirements for an exemption, deduction, or credit.

(c) The General Assembly may exempt from property taxation any property in any of the following classes:

- (1) Property being used for municipal, educational, literary, scientific, religious, or charitable purposes.
- (2) Tangible personal property other than property being held as an investment.
- (3) Intangible personal property.
- (4) Tangible ~~real~~ property, including curtilage, used as a principal place of residence by an:
 - (A) owner of the property;
 - (B) individual who is buying the tangible ~~real~~ property under a contract; or

(C) individual who has a beneficial interest in the owner of the tangible ~~real~~ property.

(~~bb~~) (d) The General Assembly may exempt any motor vehicles, mobile homes (not otherwise exempt under this section), airplanes, boats, trailers, or similar property, provided that an excise tax in lieu of the property tax is substituted therefor.

(e) This subsection applies to property taxes first due and payable in 2012 and thereafter. The following definitions apply to subsection (f):

(1) "Other residential property" means tangible property (other than tangible property described in subsection (c)(4)) that is used for residential purposes.

(2) "Agricultural land" means land devoted to agricultural use.

(3) "Other real property" means real property that is not tangible property described in subsection (c)(4), is not other residential property, and is not agricultural land.

(f) This subsection applies to property taxes first due and payable in 2012 and thereafter. The General Assembly shall, by law, limit a taxpayer's property tax liability as follows:

(1) A taxpayer's property tax liability on tangible property described in subsection (c)(4) may not exceed one percent (1%) of the gross assessed value of the property that is the basis for the determination of property taxes.

(2) A taxpayer's property tax liability on other residential property may not exceed two percent (2%) of the gross assessed value of the property that is the basis for the determination of property taxes.

(3) A taxpayer's property tax liability on agricultural land may not exceed two percent (2%) of the gross assessed value of the land that is the basis for the determination of property taxes.

(4) A taxpayer's property tax liability on other real property may not exceed three percent (3%) of the gross assessed value of the property that is the basis for the determination of property taxes.

(5) A taxpayer's property tax liability on personal property (other than personal property that is tangible property described in subsection (c)(4) or personal property that is other residential property) within a particular taxing district may not exceed three percent (3%) of the gross assessed value of the taxpayer's personal property that is the basis for the determination of property taxes within the taxing district.

(g) This subsection applies to property taxes first due and payable in 2012 and thereafter. Property taxes imposed after being approved by the voters in a referendum shall not be considered for purposes of calculating the limits to property tax liability under subsection (f).

(h) As used in this subsection, "eligible county" means only a county for which the General Assembly determines in 2008 that limits to property tax liability as described in subsection (f) are expected to reduce in 2010 the aggregate property tax revenue that would otherwise be collected by all units of local government and school corporations in the county by at least twenty percent (20%). The General Assembly may, by law, provide that property taxes imposed in an eligible county to pay debt service or make lease payments for bonds or leases issued or entered into before July 1, 2008, shall not be considered for purposes of calculating the limits to property tax liability under subsection (f). Such a law may not apply after December 31, 2019."

Renumber all SECTIONS consecutively.

(Reference is to HJR 6 as printed January 27, 2009.)

ESPICH

Representative GiaQuinta rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into House Joint Resolution 6 a joint resolution pending before the House. The Speaker ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Espich's amendment (6-1) to House Joint Resolution 6, which addresses the pressing concerns of Hoosier taxpayers by imposing caps on property taxes, violates House Rule 118. This amendment is not pending before the House, but even if it was, the majority's willingness to forego the House Rules in the past for reasons not nearly so important as Hoosier taxpayers' financial livelihood. For this reason alone, the Chair should find this not to be a bill pending.

ESPICH
FOLEY

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

The question was, Shall the ruling of the Chair be sustained? Roll Call 23: yeas 50, nays 45. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

There being no further amendments, the joint resolution was ordered engrossed.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1198, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 36, line 1, delete "of".

Page 36, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 30. IC 6-1.1-12-14, AS AMENDED BY P.L.144-2008, SECTION 18, AND AS AMENDED BY P.L.3-2008, SECTION 35, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Except as provided in subsection (c) and except as provided in section 40.5 of this chapter, an individual may have the sum of twelve thousand four hundred eighty dollars (\$12,480) deducted from the assessed value of the tangible property that the individual owns (or the real property, mobile home not assessed as real property, or manufactured home not assessed as real property that the individual is buying under a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home if the contract or a memorandum of the contract is recorded in the county recorder's office) if:

- (1) the individual served in the military or naval forces of the United States for at least ninety (90) days;
- (2) the individual received an honorable discharge;
- (3) the individual either:
 - (A) has a total disability; or
 - (B) is at least sixty-two (62) years old and has a disability of at least ten percent (10%); ~~and~~
- (4) the individual's disability is evidenced by:
 - (A) a pension certificate or an award of compensation issued by the United States Department of Veterans Affairs; or
 - (B) a certificate of eligibility issued to the individual by the Indiana department of veterans' affairs after the Indiana department of veterans' affairs has determined that the individual's disability qualifies the individual to

receive a deduction under this section; and

(5) *the individual:*

(1) *owns the real property, mobile home, or manufactured home; or*

(2) *is buying the real property, mobile home, or manufactured home under contract;*

on the date the statement required by section 15 of this chapter is filed.

(b) Except as provided in subsection (c), the surviving spouse of an individual may receive the deduction provided by this section if the individual would qualify for the deduction if the individual were alive.

(c) No one is entitled to the deduction provided by this section if the assessed value of the individual's tangible property, as shown by the tax duplicate, exceeds one hundred forty-three thousand one hundred sixty dollars (\$143,160).

(d) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section against that real property, mobile home, or manufactured home."

Page 81, line 26, delete "bureau" and insert "~~bureau~~ secretary of state".

Page 133, line 38, reset in roman "\$30".

Renumber all SECTIONS consecutively.

(Reference is to HB 1198 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

L. LAWSON, Chair

Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE

HOUSE MOTION

Mr. Speaker: I move that Representative Tyler be added as coauthor of House Bill 1012.

AVERY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Barnes be removed as coauthor of House Bill 1023.

NIEZGODSKI

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Knollman be added as coauthor of House Bill 1033.

GRUBB

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Neese be added as coauthor of House Bill 1055.

KERSEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Welch be added as coauthor of House Bill 1060.

NEESE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Murphy be added as coauthor of House Bill 1083.

BARNES

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Oxley and Lehman be added as coauthors of House Bill 1092.

PORTER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Bischoff be added as coauthor of House Bill 1096.

BARNES

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Tincher and Barnes be added as coauthors of House Bill 1116.

CHEATHAM

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Welch be added as coauthor of House Bill 1138.

RESKE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Hinkle be added as coauthor of House Bill 1156.

PRYOR

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Pryor be added as coauthor of House Bill 1172.

RIECKEN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Riecken be added as coauthors of House Bill 1187.

PORTER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Grubb be added as coauthor of House Bill 1189.

PEARSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Grubb and Michael be added as coauthors of House Bill 1193.

PEARSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Oxley and Blanton be added as coauthors of House Bill 1201.

BISCHOFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Welch be added as coauthor of House Bill 1213.

C. BROWN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Pflum and Goodin be added as coauthors of House Bill 1217.

PEARSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Lehe and Friend be added as coauthors of House Bill 1218.

PEARSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Battles be added as coauthor of House Bill 1233.

MOSES

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Saunders be added as coauthor of House Bill 1243.

RESKE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Barnes be added as coauthor of House Bill 1266.

AVERY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Koch, Reske, and Foley be added as coauthors of House Bill 1271.

PELATH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Fry be added as coauthor of House Bill 1311.

GOODIN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Dodge be added as coauthor of House Bill 1316.

L. LAWSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Neese be added as coauthor of House Bill 1324.

TORR

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Soliday be added as coauthor of House Bill 1330.

L. LAWSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Soliday be added as coauthor of House Bill 1331.

L. LAWSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Battles be added as coauthor of House Bill 1346.

PEARSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Hinkle be added as coauthor of House Bill 1373.

DE LANEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Messmer be added as coauthor of House Bill 1374.

MURPHY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Stevenson be added as coauthor of House Bill 1377.

MOSES

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Barnes be added as coauthor of House Bill 1379.

NIEZGODSKI

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Candelaria Reardon, Dermody, and Robertson be added as coauthors of House Bill 1415.

VAN DENBURGH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Day be added as coauthor of House Bill 1456.

GUTWEIN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Koch be added as coauthor of House Bill 1487.

BATTLES

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Neese be added as coauthor of House Bill 1488.

EBERHART

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Klinker and Welch be added as coauthors of House Bill 1521.

TRUITT

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Pearson be added as coauthor of House Bill 1535.

KOCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative L. Lawson be added as coauthor of House Bill 1536.

PRYOR

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative L. Lawson be added as coauthor of House Bill 1578.

DEMBOWSKI

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Candelaria Reardon be added as coauthor of House Bill 1586.

VAN DENBURGH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Avery be added as coauthor of House Bill 1591.

HINKLE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Borrer be added as coauthor of House Bill 1598.

RESKE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Candelaria Reardon be added as coauthor of House Bill 1606.

HARRIS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative M. Smith be added as coauthor of House Bill 1635.

BARDON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Austin be added as coauthor of House Bill 1639.

CLEMENTS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Clements be added as coauthor of House Bill 1650.

AUSTIN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Soliday and Stilwell be added as coauthors of House Bill 1657.

AUSTIN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Fry and Niezgodski be added as coauthors of House Bill 1707.

SAUNDERS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Cheatham be added as coauthor of House Bill 1708.

CULVER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Niezgodski be added as author of House Bill 1721.

NIEZGODSKI

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Reske be added as author of House Bill 1722.

RESKE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Goodin be added as author of House Bill 1723.

GOODIN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Avery be added as author of House Bill 1724.

AVERY

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Bartlett, the House adjourned at 11:50 a.m., this twenty-ninth day of January, 2009, until Monday, February 2, 2009, at 1:30 p.m.

B. PATRICK BAUER

Speaker of the House of Representatives

CLINTON McKAY

Principal Clerk of the House of Representatives